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are not subject to any specific hardware or software requirements.

(1) *Hardware and software requirements.* (i) A personal computer with Pentium 75-MHz or higher. Random Access Memory (RAM) must have sufficient megabyte (MB) space to run the operating system, plus an additional 8 MB for the software application and available hard disk space of 217 MB or greater. A CD-ROM drive with a Video Graphics Adapter (VGA) or higher resolution monitor (super VGA is recommended).

(ii) Microsoft Windows 2000 (64 MB or greater RAM required), Windows XP (128 MB or greater RAM required) or later operating system.

(iii) Microsoft Access 2003 or newer.

(2) *NMFS approved software standards and Internet access.* The first receiver is responsible for obtaining, installing and updating electronic fish tickets software either provided by Pacific States Marine Fish Commission, or compatible with the data export specifications specified by Pacific States Marine Fish Commission and for maintaining Internet access sufficient to transmit data files via e-mail. Requests for data export specifications can be submitted to: Attn: Frank Lockhart, National Marine Fisheries Service, Northwest Region Sustainable Fisheries Division, 7600 Sand Point Way NE., Seattle, WA 98115, or via e-mail to [frank.lockhart@noaa.gov](mailto:frank.lockhart@noaa.gov).

(3) *Maintenance.* The Pacific whiting shoreside first receiver is responsible for ensuring that all hardware and software required under this subsection are fully operational and functional whenever the Pacific whiting primary season deliveries are accepted.

(4) *Improving data quality.* Vessel owners and operators, Pacific whiting shoreside first receivers, or shoreside processor owners, or managers may contact NMFS in writing to request assistance in improving data quality and resolving issues. Requests may be submitted to: Attn: Frank Lockhart, National Marine Fisheries Service, Northwest Region Sustainable Fisheries Division, 7600 Sand Point Way NE., Seattle, WA 98115, or via e-mail to [frank.lockhart@noaa.gov](mailto:frank.lockhart@noaa.gov).

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### § 660.16 Groundfish observer program.

(a) *General.* Vessel owners, operators, and managers are jointly and severally responsible for their vessels' compliance with observer requirements specified in this section and within § 660.116, subpart D, § 660.216, subpart E, § 660.316, subpart F, or subpart G.

(b) *Purpose.* The purpose of the Groundfish Observer Program is to collect fisheries data deemed by the Northwest Regional Administrator, NMFS, to be necessary and appropriate for management, compliance monitoring, and research in the groundfish fisheries and for the conservation of living marine resources and their habitat.

(c) *Catcher vessels.* For the purposes of observer coverage requirements the term "catcher vessel" includes the vessels described in paragraphs (c)(1) through (c)(3) of this section. The term "catcher vessel" does not include: Catcher/processor or mothership vessels, Pacific whiting shoreside vessels that sort catch at sea, or recreational vessels.

(1) Any vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore).

(2) Any vessel other than a vessel described in paragraph (c)(1) of this section that is used to take and retain, possess, or land groundfish in or from the EEZ.

(3) Any vessel that is required to take a Federal observer by the applicable State law.

(d) *Observer coverage requirements.* The following table provides references to the regulatory sections with the observer coverage requirements.

West Coast Groundfish Fishery/Program	Regulation subpart and section
Catcher Vessels in the Trawl Fishery, and Pacific Whiting Shoreside Vessels that Sort Catch At Sea.	subpart D, § 660.116.
Mothership Processors .....	subpart D, § 660.116.
Catcher/Processors .....	subpart D, § 660.116.
Catcher Vessels in the Fixed Gear Fisheries.	subpart E, § 660.216.
Catcher Vessels in the Open Access Fisheries.	subpart F, § 660.316.

(e) *NMFS-certified Observer Certification and Observer Responsibilities*—(1) *Observer Certification*—(i) *Applicability*. Observer certification authorizes an individual to fulfill duties as specified in writing by the NMFS Observer Program Office while under the employ of a NMFS-permitted observer provider and according to certification endorsements as designated under paragraph (e)(3) of this section.

(ii) *Certification requirements*. NMFS will certify individuals who:

(A) Are employed by an observer provider company permitted pursuant to 50 CFR 679.50 at the time of the issuance of the certification;

(B) Have provided, through their observer provider:

(1) Information identified by NMFS at 50 CFR 679.50(i)(2)(x)(A)(1)(iii) and (iv); and

(2) Information identified by NMFS at 50 CFR 679.50(i)(2)(x)(C) regarding the observer candidate's health and physical fitness for the job;

(C) Meet all education and health standards as specified in 50 CFR 679.50(i)(2)(i)(A) and (i)(2)(x)(C), respectively; and

(D) Have successfully completed NMFS-approved training as prescribed by the Observer Program.

(1) Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.

(2) If a candidate fails training, he or she will be notified in writing on or before the last day of training. The notification will indicate: The reasons the candidate failed the training; whether the candidate can retake the training, and under what conditions, or whether, the candidate will not be allowed to retake the training. If a determination is made that the candidate may not pursue further training, notification will be in the form of an IAD denying certification, as specified under paragraph (e)(2)(i) of this section.

(E) Have not been decertified as specified in § 660.18(b), or pursuant to 50 CFR 679.50.

(2) *Agency determinations on observer certification*—(i) *Issuance of an observer certification*. An observer certification will be issued upon determination by the observer certification official (see § 660.18, subpart C) that the candidate has successfully met all requirements for certification as specified in paragraph (e)(1)(ii) of this section.

(ii) *Denial of a certification*. The NMFS observer certification official (see § 660.18, subpart C) will issue a written IAD denying observer certification when the observer certification official determines that a candidate has unresolvable deficiencies in meeting the requirements for certification as specified in § 660.18, subpart C. The IAD will identify the reasons certification was denied and what requirements were deficient.

(iii) *Appeals*. A candidate who receives an IAD that denies his or her certification may appeal pursuant to § 660.18, subpart C. A candidate who appeals the IAD will not be issued an interim observer certification, and will not receive a certification unless the final resolution of that appeal is in the candidate's favor.

(3) *Endorsements*. The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy.

(i) *Certification training endorsement*. A certification training endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. The observer can renew the endorsement by successfully completing certification training once more.

(ii) *Annual general endorsements*. Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an

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annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(iii) *Deployment endorsements.* Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all pre-cruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(iv) *Pacific whiting fishery endorsements.* A Pacific whiting fishery endorsement is required for purposes of performing observer duties aboard vessels that process groundfish at sea in the Pacific whiting fishery. A Pacific whiting fishery endorsement to an observer's certification may be obtained by meeting the following requirements:

(A) Be a prior NMFS-certified observer in the groundfish fisheries off Alaska or the Pacific Coast, unless an individual with this qualification is not available;

(B) Receive an evaluation by NMFS for his or her most recent deployment (if any) that indicated that the observer's performance met Observer Program expectations for that deployment;

(C) Successfully complete a NMFS-approved observer training and/or Pacific whiting briefing as prescribed by the Observer Program; and

(D) Comply with all of the other requirements of this section.

(4) *Standards of observer conduct—(i) Standards of behavior.* Observers must avoid any behavior that could adversely affect the confidence of the public in the integrity of the Observer Program or of the government, including but not limited to the following:

(A) Observers must perform their assigned duties as described in the Observer Manual or other written instruc-

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tions from the Observer Program Office.

(B) Observers must accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(C) Observers must not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, an authorized officer, or NMFS.

(D) Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole. This includes, but is not limited to:

(1) Violating the drug and alcohol policy established by and available from the Observer Program;

(2) Engaging in the use, possession, or distribution of illegal drugs; or

(3) Engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

**§ 660.17 Catch monitors and catch monitor service providers. [Reserved]**

**§ 660.18 Certification and decertification procedures for observers, catch monitors, catch monitor providers, and observer providers.**

(a) *Observer certification official.* The Regional Administrator (or a designee) will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification pursuant to the regulations at § 660.16(e), subpart C.

(b) *Observer suspension and decertification.*

(1) *Suspension and decertification review official.* The Regional Administrator (or a designee) will designate a suspension and decertification review official(s), who will have the authority